

## **REMARKS**

### **Summary of the Final Office Action**

In the Final Office Action, claims 1-5, 7, 9-14, 30-34, 36, 38-43, 47-52 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Komatsu* (USPN 5,814,924) in view of EP 0863533 (EP '533).

### **Summary of the Response to the Office Action**

Applicants have amended claims 1, 30, 48 and 50, and have canceled claims 51-52 without prejudice or disclaimer. Accordingly, claims 1-16 and 30-50 are presently pending with claims 1-5, 7, 9-14, 30-34, 36, 38-43, and 47-50 currently being under consideration.

Applicants respectfully request rejoinder of the pending withdrawn claims upon allowance of the claims under consideration.

### **The Rejection under 35 U.S.C. § 103(a)**

Claims 1-5, 7, 9-14, 30-34, 36, 38-43, 47-52 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Komatsu* (USPN 5,814,924) in view of EP 0863533 (EP '533).

Applicants respectfully traverse the rejections for at least the following reasons.

First, Applicants wish to clarify the comments of the Request for Reconsideration under 37 C.F.R. § 1.116 filed December 10, 2004. Specifically, Applicants intended to emphasize that respective devices of Figures 4A-4D in *Komatsu* were different intermediate products.

Moreover, Applicants intended to point out that the devices of Figures 4A-4C were clearly intermediate products that cannot be considered to read on the claims of the present application.

Moreover, at best, Figure 4D could be compared to the subject matter of the claims whether the device of Figure 4D was a final product or not. In fact, upon review of the Request for

Reconsideration under 37 C.F.R. § 1.116 filed December 10, 2004, Applicants do not find an assertion that Figure 4D was a final product. With respect to the clearly intermediate products of Figures 4A-4C, Figures 4A and 4B lack the gate electrode 70/72 (which is alleged to be a “metal thin film electrode” as claimed) and that substrate 64 (which is alleged to be an “electron source layer”) is completely covered by the silicon dioxide layer 66 and the mask 62. Thus, the devices of all of Figures 4A-4C cannot be considered to be an “electron emitting device” and lack the feature that “electrons are emitted upon application of an electric field between said electron source layer and said metal thin film electrode.” As a result, Applicants focused the remarks on Figure 4D. Therefore, in view of this clarification, Applicants request reconsideration of the arguments presented in the Request for Reconsideration under 37 C.F.R. § 1.116 filed December 10, 2004.

Second, Applicants respectfully assert that none of the devices of Figures 4A-4D in *Komatsu* teach or suggest an island region wherein “the electron source layer directly interfaces the carbon region at a center of the island region.” That is, the entire gate electrode 70/72 is on the silicon dioxide layer and the “overhang.” Here, Applicants respectfully submit that the Final Office Action does not rely on *EP533* to disclose this feature and that *EP533* cannot remedy this deficiency.

Third, Applicants respectfully submit that *Komatsu* does not disclose a “carbon region” as claimed. Applicants further note that the Final Office Action does not assert any feature of *Komatsu* to be a carbon region as claimed. As a result, the Final Office Action further relies on *EP533*. However, the carbon containing layer in *EP533* is an intermediate layer disposed between the insulator and the thin film metal electrode. As such, *EP533* certainly does not

disclose a “carbon region being disposed having a vacuum space directly over the carbon region” as recited by independent claims 1 and 30, as amended. Moreover, Applicants respectfully submit that there would be no motivation to modify the teaching of the applied art to achieve the claimed invention.

Accordingly, Applicants respectfully submit that claims 1-5, 7, 9-14, 30-34, 36, 38-43, and 47-50, as presently presented, are allowable and that the rejection under 35 U.S.C. § 103(a) should be withdrawn.

In addition, Applicants have cancelled claims 51-52 without prejudice or disclaimer, thereby rendering the rejection of claims 51-51 moot.

### **Conclusion**

In view of the foregoing, Applicants respectfully request reconsideration and the timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicants’ undersigned representative to expedite prosecution.

**EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account

No. 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR**

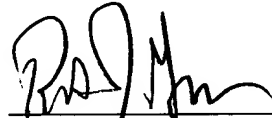
**EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**

Dated: February 10, 2005

By:



Robert J. Goodell

Reg. No. 41,040

**CUSTOMER NO. 009629**

**MORGAN, LEWIS & BOCKIUS LLP**

1111 Pennsylvania Avenue, N.W.

Washington, D.C. 20004

Tel: 202-739-3000

Fax: 202-739-3001